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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

██████████
4854 N 91st St
Milwaukee, WI 53225

DECISION

MPA/158607

PRELIMINARY RECITALS

Pursuant to a petition filed June 24, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on August 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department of Health Services (Department) properly denied Petitioner's medical prior authorization for partial dentures when Petitioner's current set of dentures is less than 1.5 years old.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

██████████
██████████
██████████

█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Written Appearance By: Robert Dwyer, DDS
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. Petitioner is certified as eligible for MA.

2. On June 4, 2014 Petitioner's dentist, Dr. Tanwir [REDACTED] submitted a medical prior authorization for partial dentures. Petitioner needed two partials; each partial cost \$800.00, for a total cost of \$1600.00. On the prior authorization form Dr. [REDACTED] checked initial placement of dentures, that the last teeth were extracted on May 2, 2014, that tooth 14 was the last tooth extracted, that Petitioner was missing at least one anterior tooth and/or has fewer than two posterior teeth in any one quadrant in occlusion with opposing arch, and that Petitioner has at least six missing teeth per arch. The provider does not provide any explanation about why Petitioner's current set of dentures do not meet her needs.
3. On June 16, 2014 Department denied this prior authorization request because Petitioner has dentures that are less than five years old. A prior authorization for Petitioner's current dentures was approved by Department on February 13, 2013.
4. On June 27, 2014 the Division of Hearings and Appeals received Petitioner's appeal of this denial. In her appeal letter and her testimony Petitioner stated that she has had teeth extracted between her first partial set of dentures and this request. Due to these extractions her current dentures do not fit properly and fall out of her mouth. She testified that her current dentures never fit very well even before these teeth were extracted.
5. After the hearing the ALJ sent an e-mail to Dr. Dwyer asking if these extractions would change DHS' opinion. Dr. Dwyer responded stating that "there was no information in the prior authorization request to indicate any mitigating circumstances to allow us to consider approving. We are unable to undo a denial, but the recipient can provide any information to the provider that might be pertinent, and the provider can submit another Prior Authorization."

DISCUSSION

The Department may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§ 49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code Ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the DHCAA in advance of receiving the service. Finally, some services and equipment are never covered by the MA program. The MA program covers dentures, however dentures are only allowed once per five years, per arch, unless extenuating medical circumstances are present and documented by the provider. *Wisconsin Medicaid program dental prior authorization guidelines*, Page 124.011.01.

The requested partial dentures in this case are not covered by the MA program per Wis. Admin. Code § DHS 107.02(3)(e), because Petitioner received her current dentures less than 1.5 years before this denture request. The dental provider has not documented any extenuating medical circumstances to exceed the five year frequency limitations for dentures. The provider did not even check the box stating "the frequency limitation must be exceeded" nor explain why this frequency limitation must be exceeded. The prior authorization form specifically states that a provider should explain the need to exceed the frequency limitation. In addition, the provider also did not check the box for a "worn base / broken teeth or poor fit" for the current dentures. The provider did not provide any explanation or documentation showing the extenuating medical circumstances, and specifically why Petitioner's current set of dentures can no longer meet Petitioner's needs.

Petitioner states in her request for fair hearing that she has had four teeth extracted since her last partial in February 2013. At the beginning of her testimony she stated that she had five teeth extracted since her current dentures, but later in her testimony she said that she had three teeth extracted since her current dentures were made. She did not know the teeth numbers. She said that two were in the back and one was in the front. The dental records state that tooth 14 was extracted on May 2, 2014, but does not state how the extraction of tooth 14 impacts her current dentures. The prior authorization request does not state that other teeth were extracted. Petitioner also stated that her current dentures never fit properly. The

provider does not document that either. Although I do not believe that Petitioner is intentionally lying, she is a lay person. She has no training in dentistry.

Under MA, the burden is on the provider to justify the medical necessity for the requested service or equipment. In this case the burden is on the provider to show a need to exceed the five year frequency limitation of the dentures. The provider should also explain why the current set of dentures could not be modified to meet Petitioner's needs. The documentation provided by the provider is insufficient to support the replacement partials requested.

After a review of the evidence in this record, I concur with the Department. The Department very reasonably stated that "there was no information in the prior authorization request to indicate any mitigating circumstances to allow us to consider approving. We are unable to undo a denial, but the recipient can provide any information to the provider that might be pertinent, and the provider can submit another Prior Authorization." This decision is only sent to the Department and Petitioner. **The provider will not get a copy of this decision unless Petitioner gives the provider a copy of the decision.** If everything that Petitioner said is true and supported by the proper medical records and documentation, and that her current dentures cannot be properly fitted to her mouth, then the provider may send another prior authorization request with that information.

CONCLUSIONS OF LAW

The Department properly denied the prior authorization for partial dentures when Petitioner's current dentures were less than one and half years old.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

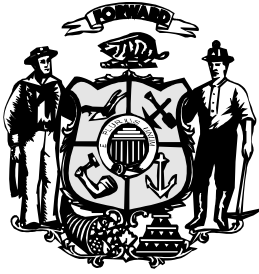
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 14th day of August, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 14, 2014.

Division of Health Care Access and Accountability